

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

LIBERTY MUTUAL INSURANCE	)	
COMPANY AND SUBSIDIARIES,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. 1:05-cv-11048-RCL
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

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LIBERTY MUTUAL FIRE INSURANCE	)	
COMPANY AND SUBSIDIARIES,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil No. 1:05-cv-11049-RCL
	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

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PLAINTIFFS' AMENDED MOTION TO  
COMPEL PRODUCTION OF DOCUMENTS

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**Request for Oral Argument**

Plaintiffs Liberty Mutual Insurance Company and Liberty Mutual Fire Insurance Company respectfully reassert their request for the currently scheduled hearing regarding the matters addressed in this amendment to the Motion to Compel Production of Documents filed October 27, 2006 (Doc. No. 27). The hearing is scheduled to take place

June 20, 2007.

Pursuant to Rule 37 of the Federal Rules of Civil Procedure and Rule 37.1 of the Local Rules of the United States District Court for the District of Massachusetts, Plaintiffs hereby amend the Motion to Compel Production of Documents as follows:

Plaintiffs' counsel have met with Defendant's counsel pursuant to the Court's Electronic Orders dated March 16, 2007, and April 18, 2007. Plaintiffs are in agreement with Defendant's argument that the background files underlying Rev. Proc. 91-48, Rev. Proc. 92-77 and Treas. Reg. § 1.832-4 and its predecessor proposed regulation are not relevant to the outcome of this case, ***but only if*** the Court finds that section 11305 of the Revenue Reconciliation Act of 1990 Pub. L. No. 101-508, and the Revenue Procedures and Treasury Regulation are clear and unambiguous.

In the event the Court finds ambiguity in the Statute, Regulation or Revenue Procedures, Plaintiffs request adverse inferences resolving the ambiguities against Defendant, or, in the alternative, an Order compelling production and an opportunity to address the documents in a brief as previously requested in the pending Motion to Compel.

The grounds for this motion and the specific adverse inferences requested are set forth in the accompanying Memorandum in Support.

**I hereby certify that I complied with the requirements of Local Rule 37.1 before filing this motion.**

Date: June 8, 2007

s/ Samuel A. Mitchell  
Samuel A. Mitchell

Respectfully submitted,

Date: June 8, 2007

/s/ Samuel A. Mitchell

Samuel A. Mitchell

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Admitted Pro Hac Vice

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing *Plaintiffs' Amended Motion to Compel Production of Documents*, and its accompanying *Memorandum in Support of Plaintiffs' Amended Motion to Compel Production of Documents* filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on this 8th day of June, 2007:

Karen Wozniak  
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